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10/752,712	01/08/2004	Randy M. Shoostinc	23994.00	5538

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EXAMINER	
PINHEIRO, JASON PAUL	
ART UNIT	**PAPER NUMBER**
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No.	Applicant(s)	
	10/752,712	SHOOSTINE, RANDY M.	
	Examiner	Art Unit	
	Jason Pinheiro	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 January 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *01/08/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because in fig. 9 reference number "140" points to "writing tablet", reference number "140" should point to --writing screen--, and reference number "128" points to "gameplay controls", reference number "128" should point to –control panel--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "152" and "158" as seen in fig. 9. Corrected drawing sheets in compliance

with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "112" and "144" have both been used to designate housing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The use of the trademark "RCA" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

5. The disclosure is objected to because of the following informalities:

Reference character "128" has been used to designate both "the gameplay control panel" and "the gameplay controls" throughout the specification

"LCD display 143" (Page 17, Lines 16-17) should be changed to --LCD display 134--.

Appropriate correction is required.

Claim Objections

6. Claims 15, and 18 are objected to because of the following informalities:

Regarding claim 15: "a match" (Line 15) should be changed to --the match--.

Regarding claim 18: "a button" (Line 16) should be changed to --the button--, and "a match" (Line 24) should be changed to --the match--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 4, contains the trademark/trade name "an RCA jack". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe "a phono plug" and, accordingly, the identification/description is indefinite.

9. Claim 1 recites the limitations "said output signals" (Line 7), and "the gameplay" (Lines 11-12),. There is insufficient antecedent basis for these limitations in the claim.

10. Claims 2 (Lines 2-3), and 3 (Lines 2-3) recite the limitation "the output signals". There is insufficient antecedent basis for this limitation in the claims.

11. Claims 6-10, and 14 recite the limitation "said input device" in Line 2. There is insufficient antecedent basis for this limitation in the claims.

12. Claim 15 recites the limitations "the user" (Lines 6, 9, and 13-14), "the output signal" (Lines 7, and 10-11), "the specific button" (Lines 7-8, and 11-12), "the selected buttons" (Lines 10, and 15), and "the amount of time" (Line 16). There is insufficient antecedent basis for these limitations in the claim.

13. Claims 16-17, and 19-20 recite the limitation "the game device" in Line 2. There is insufficient antecedent basis for this limitation in the claims.

14. Claim 15 recites the limitations "the output signal" (Lines 7, 10, 12, 17, 20, and 22), "the specific button" (Lines 7-8, 12-13, 17-18, and 22-23), "the selected buttons" (Lines 10-11, and 20-21), and "the amount of time" (Line 28). There is insufficient antecedent basis for these limitations in the claim.

15. Claims 15, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 15: the claim refers to "the previous step" throughout the claim, however it is unclear as to which previous step is being referred to by this limitation.

Regarding claim 18: the claim refers to "the previous step" throughout the claim, however it is unclear as to which previous step is being referred to by this limitation.

16. Claims 2, 5, and 12-13 are rejected as being dependent on the above rejected claims.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1-3, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Mirando (US 5411271).

Regarding claim 1: Mirando '271 discloses an electronic memory game (Col. 1, Lines 5-10), a housing having an exterior surface (Col. 3, Lines 10-24) (Fig. 1); a plurality of manually operable selection buttons (Col. 1, Lines 42-44) (Fig. 1); a microcontroller for generating a plurality of perceptively differentiable output signals and assigning each output signal to one of said selection buttons (Col. 3, Line 45 – Col. 4, Line 35); an output device for projecting said output signals (28 in Fig. 1); a gameplay display disposed on the exterior surface of said housing for displaying specific gameplay indicia (Col. 3, Lines 25-30) (Fig. 3D); and a gameplay control panel disposed on the exterior surface of said housing for controlling specific aspects of the gameplay (Col. 3 Lines 42-44); whereby said plurality of perceptively differentiable output signals comprise a plurality of sets of output signals that are to be matched by matching sets of matching output signals, wherein said microcontroller is responsive to the operation of said selection buttons whereby operation of said selection buttons causes the microcontroller to generate a specific output signal (Col. 5, Line 60 – Col. 6, Line 2).

Regarding claim 2: Mirando discloses that said output device comprises a display screen for displaying the output signals wherein said output signals comprise displayable images (28 in Figs. 1, and 3B).

Regarding claim 3: Mirando discloses that said output device comprises a speaker (74 in Fig. 2).

Regarding claim 11: Mirando discloses that said selection buttons comprise a plurality of depressible buttons disposed along the exterior surface of said housing (Col. 1, Lines 42-44) (Fig. 1).

Regarding claim 15: Mirando discloses a method of playing a single player electronic memory game having a device with a plurality of manually operable selection buttons comprising the steps of: randomly assigning a specific output signal to each of the selection buttons (Col. 5, Lines 30-63); prompting the user to select a button (Col. 5, Lines 48-52); displaying the output signal associated with the specific button selected in the previous step (Col. 5, Line 64 – Col. 6, Line 2); prompting the user to select another button in an attempt to match the output signals associated with the selected buttons (Col. 6, Lines 3-7); displaying the output signal associated with the specific button selected in the previous step (Col. 5, Line 64 – Col. 6, Line 2); notifying the user of whether or not a match has been made (Col. 7, Lines 24-25); crediting the user for each successful match made (Col. 7, Lines 58-66); resetting the selected buttons when a

match is not made (Col. 8, Lines 38-41); and tracking the amount of time lapsed while the game is played (Col. 7, Lines 54-57).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

19. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mirando (US 5411271) in view of Bertram et al (US 5681220).

Mirando discloses that which is discussed above. However Mirando does not disclose an RCA jack for displaying images on an external television screen or personal computer.

Bertram '220 does disclose an RCA jack for displaying images on an external television screen or personal computer (Col. 10, Line 60 – Col. 11, Line 9).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Bertram into the teachings of Mirando in order to output the video to an external device.

20. Claims 5-6, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mirando (US 5411271) in view of Shimizu et al (US 4770416).

Regarding claims 5, and 16: Mirando discloses that which is discussed above. However Mirando does not disclose at least one input device for inputting data into said microcontroller.

Shimizu '416 does disclose at least one input device for inputting data into said microcontroller (Col. 3, Lines 1-23).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Shimizu into the teachings of Mirando in order to create a more interactive game device for the user to use, thereby creating a more enjoyable game.

Regarding claim 6: Mirando discloses that which is discussed above. However Mirando does not disclose that said input device comprises a microphone for receiving auditory data.

Shimizu '416 does disclose that said input device comprises a microphone for receiving auditory data (Col. 3, Lines 1-23).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Shimizu into the teachings of Mirando in order to create a more interactive game device for the user to use, thereby creating a more enjoyable game.

Regarding claim 17: Mirando discloses that which is discussed above. However Mirando does not disclose manipulating the data inputted into the game device.

Shimizu '416 does disclose manipulating the data inputted into the game device (Abstract).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Shimizu into the teachings of Mirando in order to create a more interactive game device for the user to use, thereby creating a more enjoyable game.

21. Claims 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mirando (US 5411271) in view of Shimizu et al (US 4770416) as applied to claim 5 above, and further in view of Bertram et al (US 5681220).

Regarding claim 7: Mirando and Shimizu disclose that which is discussed above. However neither Mirando nor Shimizu disclose that said input device comprises a writing screen and writing implement.

Bertram does disclose that said input device comprises a writing screen and writing implement (Fig. 1A).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Bertram into the combined teachings of Mirando and Shimizu in order to allow the user to input data into the gaming device.

Regarding claim 9: Mirando and Shimizu disclose that which is discussed above. However neither Mirando nor Shimizu disclose that said input device comprises a keyboard

Bertram does disclose that said input device comprises a keyboard (Fig. 2A).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Bertram into the combined teachings of Mirando and Shimizu in order to allow the user to input data into the gaming device.

22. Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mirando (US 5411271) in view of Shimizu et al (US 4770416) as applied to claim 5 above, and further in view of Dragusin (US 2004/0254020).

Regarding claim 8: Mirando and Shimizu disclose that which is discussed above. However neither Mirando nor Shimizu disclose that said input device comprises a digital camera for inputting images.

Dragusin does disclose that said input device comprises a digital camera (Fig. 2A).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Dragusin into the combined teachings of Mirando and Shimizu in order to allow the user to input data into the gaming device in order to play the game.

23. Claims 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mirando (US 5411271) in view of Shimizu et al (US 4770416) as applied to claim 5 above, and further in view of Himoto (US 2002/0111216).

Regarding claim 10: Mirando and Shimizu disclose that which is discussed above. However neither Mirando nor Shimizu disclose that said input device comprises a vibrating device.

Himoto '216 does disclose said input device comprises a vibrating device (Paragraph [0191]).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Himoto into the combined teachings of Mirando and Shimizu in order to allow the user to input data into the gaming device in order to play the game.

Regarding claim 14: Mirando and Shimizu disclose that which is discussed above. However neither Mirando nor Shimizu disclose that said input device comprises a memory card reader for retrieving data from a data memory card.

Himoto '216 does disclose a memory card slot (Abstract)

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Himoto into the combined teachings of Mirando and Shimizu in order to allow the user to load data from a memory card.

24. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mirando (US 5411271) in view of Pryzby (US 2004/0142747).

Mirando discloses that which is discussed above. However Mirando does not disclose that said selection buttons comprise a plurality of touch buttons displayed on an interactive touch screen.

Pryzby '747 does disclose that said selection buttons comprise a plurality of touch buttons displayed on an interactive touch screen (Paragraph [0016]).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Pryzby into the teachings of Mirando in order to allow the player to operate the game.

25. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mirando (US 5411271) in view of Bristow (US 6572108).

Mirando discloses that which is discussed above. However Mirando does not disclose that said selection buttons comprise a plurality of panels disposed along a footpad.

Bristow '108 does disclose that said selection buttons comprise a plurality of panels disposed along a footpad (Col. 3, Lines 20-55).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Bristow into the teachings of Mirando in order to allow the player to operate the game using their feet.

26. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takeshi (US 5316309) in view of Mirando (US 5411271).

Takeshi '309 discloses randomly assigning a specific output signal to each of the selection buttons (Col. 5, Lines 22-31); prompting a first player to select a button (Col. 5, Lines 26-33); displaying the output signal associated with the specific button selected in the previous step (Col. 5, Lines 30-33); prompting the first player to select another button in an attempt to match the output signals

associated with the selected buttons (a player is allowed another turn upon the occurrence of a match, Col. 5, Lines 30-45); displaying the output signal associated with the specific button selected in the previous step (Col. 5, Lines 30-33); notifying the first player of whether or not a match has been made (a player is allowed another turn upon the occurrence of a match, Col. 5, Lines 30-45); prompting a second player to select a button (a player must allow a second player a turn upon the occurrence of a match not occurring, Col. 5, Lines 30-45); displaying the output signal associated with the specific button selected in the previous step (Col. 5, Lines 35-36); prompting the second player to select another button in an attempt to match the output signals associated with the selected buttons (a player is allowed another turn upon the occurrence of a match, Col. 5, Lines 30-45); displaying the output signal associated with the specific button selected in the previous step (Col. 5, Lines 35-40); notifying the second player of whether or not a match has been made (a player is allowed another turn upon the occurrence of a match, Col. 5, Lines 30-45); crediting each player for each correct match by that player (Col. 5, Lines 22-53). However Takeshi does not disclose an electronic game; and tracking the amount of time lapsed while the game is played.

Mirando does disclose an electronic memory game (Abstract); and tracking the amount of time lapsed while the game is played (Col. 7, Lines 54-57).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Mirando into the teachings of Takeshi in order to more enjoyable and exciting memory game.

27. Claims 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeshi (US 5316309) in view of Mirando (US 5411271) as applied to claim 18 above, and further in view of Shimizu et al (US 4770416).

Regarding claim 19: Mirando and Takeshi disclose that which is discussed above. However neither Mirando nor Takeshi disclose inputting data into the game device through an external input device, whereby the data is used as specific output signals.

Shimizu does disclose inputting data into the game device through an external input device, whereby the data is used as specific output signals (Col. 3, Lines 1-23).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Shimizu into the combined teachings of Mirando and Takeshi in order to create a more interactive game device for the user to use, thereby creating a more enjoyable game.

Regarding claim 20: Regarding claim 19: Mirando and Takeshi disclose that which is discussed above. However neither Mirando nor Takeshi disclose manipulating the data inputted into the game device.

Shimizu does disclose manipulating the data inputted into the game device (Abstract)

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Shimizu into the combined teachings of Mirando, and Takeshi in order to create a more interactive game device for the user to use, thereby creating a more enjoyable game.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Pinheiro whose telephone number is 571-270-1350. The examiner can normally be reached on M - F 8:00 AM - 4 PM;.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JP
06/07/2007

KIM NGUYEN
PRIMARY EXAMINER